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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,440	04/14/2004	Bruce Bent	049212-0102	8474
22428 7590 05/18/2007 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			EXAMINER PATEL, JAGDISH	
			ART UNIT 3693	PAPER NUMBER
			MAIL DATE 05/18/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/825,440	Applicant(s) BENT ET AL.	
	Examiner JAGDISH PATEL	Art Unit 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-118 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-118 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :3/2/07, 10/25/06, 10/20/06, 9/29/06, 8/25/05.

DETAILED ACTION

1. This communication is in response to REI application filed 4/14/04 of 09/176,340 filed 10/21/1998 and corresponding Patent 6,374,231.
2. The examiner has acknowledged that the applicant has shown sufficient ground for the original patent to be wholly or partly inoperative or invalid. The applicant's statement regarding the presence of one or more errors upon which reissue is based has been reviewed and is deemed acceptable for examination of the reissue application.
3. The examiner has pointed out deficiencies present in the pending claims and determined that, subject to correction of the deficiencies in the pending claims, and based on the prosecution history of the parent application 09/176,340 there is no impermissible capture for the reissue claims.

Information Disclosure Statement

4. The information disclosure statement (IDS) Mail Date: 3/2/07, 10/25/06, 10/20/06, 10/29/06, and 8/25/05. was filed after the mailing date of the re-issue application on 4/14/04. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-118 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following is exemplary analysis of claim deficiencies of independent claims. The applicant is requested to review all pending claims, and amend the claims as necessary to resolve such deficiencies. The examiner notes that without further amendment to claims that correct the deficiencies, the error(s) upon which the reissue application is filed (see Oath and Declaration), cannot be addressed.

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Claim 1: clarify the limitation “each account” as “each of the plurality of demand accounts” to correlate with the “demand accounts” referenced in the preamble.

The limitation “using the determination...to deposit funds to or withdraw funds from..” is indefinite because it recites the depositing and withdrawing only as intended functions. Furthermore the “wherein” phrase has no functional relationship to the “using” or any other process steps. The “wherein” phrase is recited as a desired outcome of the “using” step. The process involved in the “wherein” should be rewritten in the functional form to be part of the method. The examiner suggests the following language:

“depositing funds to or withdrawing funds from said single insured money market deposit account based on the determination of the net transaction:”,

“preserving the interest-bearing status of the single insured money market deposit account regardless of the number of said deposits to and/or withdrawals from said single insured money market deposit account actually made during a month;” .

The “updating the database for each client’s deposit and authorized demand payments” step does not relate to any other steps in the claim. Thus, it is unclear as on what basis the updating occurs. It is recommended that this steps be amended to read:

“updating the database based on the interest paid and clients’ deposits and withdrawals”.

Independent system claim 4 corresponds to process claimed in claim 1. therefore, the elements of the system should correspond to the process steps of claim 1.

Independent claim 7 contains the following deficiencies:

In limitation “a transaction input processor “said plural client accounts” should read “said plural client transaction accounts”. (antecedent basis).

In limitation “account computation processor” the phrase “capable of calculating” renders the claim indefinite. It is suggested that it be replaced by “operable for calculating”. (“capable” is not definitive whereas “operable” is).

Limitation d. is not a limitation of a system because it is recited as a process performed by the processor. It should read as a limitation which a part of the system. For example, it may read as follows:

“said processor is further operable for accessing ..and calculating”.

Limitation d. recites a component of the data processing system (computation processor). It also recites specifics of a method for asset adjustment of the insured deposit. This renders the claim indefinite in terms of whether it recites a method and an apparatus. Furthermore, the usage of phrase “to permit” renders the claim indefinite because one cannot ascertain the boundaries of the claimed system in terms of the functionality recited.

Claim 7 is rendered indefinite because it recites a method with only intended use or intended result (a method for asset adjustment of ..insured deposit) without specifically pointing out structural elements that functionally carry out the method in conjunction with the data processing system.

It is recommended that the aforementioned system functionality be included via one or more structural elements of the system (see claim 1 analysis).

Claim 16 recites “managing ..by a method for asset-adjustment of said insured deposit account that preserves said insured deposit account’s interest-bearing status regardless of the number of transfers and/or withdrawals from said insured deposit account actually made during a

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month.” This recitation renders the claim indefinite because the claim only recites a method that accomplished a specific and intended purpose of the method, but fails to provide specifics of the method. The question raised is what are the specifics of (i.e. processes performed by) the method of asset-adjustment of insured deposit account that preserves insured deposit account's interest-bearing status regardless of the number of transfers and/or withdrawals from said insured deposit account actually made during a month?.

Appropriate correction is required.

Method claim 43 contains deficiencies similar to claim 1. Appropriate correction(s) is required.

Note: “wherein more than six (6) transfers and/or withdrawals are made during a month ..” is not a process step. It should recite “ allowing more than six (6) deposits and/or withdrawals” as explained in claim 1 for similar limitation.

Claim 52 corresponds to method claims 43 and contains deficiencies similar to claim 43.

Additionally, claim 52 recites determination of whether to deposit funds or withdraw funds from the single insured money market account without positively reciting the actual occurrence of deposit or withdrawal. The device function should be positively (or affirmatively) recited (and not conditional as currently recited). For example, the limitation can be appropriately recited as a (comparison) device for depositing funds to or withdrawing funds from said single insured money market deposit account based on the net transaction, wherein more than six (6) transfers and/or withdrawals are made during a month from said single insured money market deposit account.

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The term “comparison” in the limitation “a comparison device” is vague. What comparison is being done by this limitation?

The wherein phrase does not form a part of the system because it is recited as a desired outcome from the system.

Claim 61: step d. recites “wherein more than six (6) asset-adjustment transfers and/or withdrawals are actually made during a month from said insured deposit account providing a return on assets” as expected outcome as discussed before. This feature should be recited as function performed by the processor as suggested below.

“said computation processor assessing the aggregate activity of said plural client transaction accounts for a respective period, and calculating an asset adjustment to said insured deposit account, to permit adjustment of the amount in said insured deposit account, wherein said processor allows more than six (6) asset-adjustment transfers and/or withdrawals during a month from said insured deposit account providing a return on assets. “

claim 73 should recite step e. as

“e. managing said insured deposit account by assessing the aggregate activity of said plural client transaction accounts for a respective period and calculating an asset adjustment to said insured deposit account to permit adjustment of the amount in said insured deposit account, wherein said managing insured deposit account comprises allowing more than six (6) asset adjustment transfers and/or withdrawals during a month from said insured deposit account providing a return on assets “.

Claim 83: refer to claim 1 analysis.

Claim 92: refer to claim 52 analysis.

Claim 101: refer to claim 1 analysis.

Claim 110: refer to claim 1 and 52 analysis.

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Whereas the examiner has attempted to identify deficiencies of the pending claims as discussed above, the applicant is requested to review all pending claims and make appropriate amendments as deemed appropriate consistent with the MPEP requirements (See Chapter 1412.) to particularly point out and distinctly claim the subject matter in the spirit of the analysis presented by the examiner. This would expedite the application for issuance.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAGDISH PATEL whose telephone number is (571) 272-6748. The examiner can normally be reached on 800AM-630PM Mon-Tue and Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **KRAMER JAMES A** can be reached on **(571)272-6783**. The fax phone number for the organization where this application or proceeding is assigned is 517-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jagdish N. Patel

(Primary Examiner, AU 3693)

5/10/07